

May 3, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

06AN0267

Robert John Martinko

Clover Hill Magisterial District
9229 Reams Road

- REQUESTS:
- I. A 1.1 foot Variance to the forty (40) foot side yard setback requirement for an existing dwelling.
 - II. A 37.45 foot Variance to the 150 foot lot width requirement.
 - III. A 78.1 foot Variance to the 150 foot front yard setback requirement for an existing dwelling.
 - IV. A 68.1 foot Variance to the 140 foot front yard setback requirement for an existing porch.

RECOMMENDATION

Recommend denial of these requests for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which these requests are based that are unique to the property and are not generally applicable to other properties in the area.
- B. The applicant has provided no information that there are such unusual circumstances about this property that adherence to the required setback would cause undue hardship.
- C. There is an alternative to these requests which does not violate building setbacks, a porch setback or a lot width.

GENERAL INFORMATION

Location:

Property is known as 9229 Reams Road. Tax ID 752-699-1038 (Sheet 6).

Existing Zoning:

A

Size:

1 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - A; Residential
South - R-9; Residential and vacant
East - A and R-9; Residential and vacant
West - A; Residential

Utilities:

Public water and sewer

General Plan:

(Northern Area Land Use and Transportation Plan)

Residential
(1.51 to 4.0 units per acre)

DISCUSSION

The applicant has indicated the existing dwelling is located 38.9 feet from the side property line. The Zoning Ordinance requires a forty (40) foot side yard setback requirement in an Agricultural (A) District. Therefore, the applicant requests a 1.1 foot Variance (see attached plat). The applicant has indicated the subject property is 112.55 feet wide. The Zoning Ordinance requires a 150 foot lot width in an Agricultural (A) District. Therefore, the applicant requests a 37.45 foot Variance (see attached plat). The applicant has indicated the existing dwelling is located 71.9 feet from the front property line. The Zoning Ordinance requires a 150 foot front yard setback. Therefore, the applicant requests a 78.1 foot Variance (see attached plat). Staff notes the applicant's graphics indicate that the existing dwelling is located 79.8 feet from the front property line and therefore would need a 70.2

foot Variance. The applicant also indicates that the existing porch is located 71.9 feet from the front property line. The Zoning Ordinance allows porches to encroach up to ten (10) feet in the required front yard setback making the setback requirement 140 feet. Therefore, the applicant requests a 68.1 foot Variance (see attached plat).

The graphic shows that the existing dwelling is located 79.8 feet from the front property line and, therefore, the applicant would need a 70.2 foot Variance. If approved, staff would recommend the request be reduced to reflect this change.

The applicant provides the following justification in support of this request:

The Variances are requested in order to bring an existing single family dwelling into compliance with current codes. This is necessary so as to permit a family split of the 2.4 acre parcel. The existing dwelling was built in 1938 prior to any Zoning Ordinances. The Agees, Jean and James, are long time Chesterfield residents who are the owner of the subject property along with their daughter and her husband. They are retired senior citizens, on fixed incomes, who are dealing with health difficulties; Mr. Agee has emphysema, is on oxygen twenty-four (24) hours a day and has limited mobility. The goal is to utilize the property they currently own to build a financially manageable handicapped accessible dwelling. This property is also adjacent to a home owned and occupied by relatives. The Agees currently live in an older two (2) story home that would be cost prohibitive to convert to accommodate a handicapped individual. A family split of the 2.4 acre parcel will permit the Agees to build a new dwelling close to relatives without incurring a lot acquisition cost, a family split of the property will require that the existing dwelling meet the current County ordinances.

Chesterfield County's Assessor records indicate that the subject property was purchased by Margaret Reams' estate in care of Jean Agee in 1987. In 2002, the property was transferred to RVJ, LLC, in care of Jean Agee. This property consists of 2.278 acres. The applicant's representative, Robert J. Martinko, indicates that Jean Agee is proposing to subdivide the property into two (2) separate parcels. The back property will consist of 1.4 acres and will not have public road frontage thus necessitating the need for Case 06AN0266. The front property will consist of one (1) acre and has a dwelling located on the property. This dwelling was constructed in 1938 prior to the Zoning Ordinance. The dwelling is non-conforming, however, once the applicant subdivides the subject property, the lot would have a new creation date and would be required to meet today's Zoning Ordinance regulations that include lot width and setback requirements. The applicant has indicated if the parcels are subdivided the existing dwelling would be in violation of the front and side setback requirements and the front setback requirement for the existing porch. Also, the front one (1) acre parcel being subdivided could not meet the 150 foot lot width requirement in today's Zoning Ordinance.

Staff reviewed the application and finds that there are no extraordinary circumstances or conditions that apply to the subject property which do not apply generally to all other properties in the immediate area. Also, the applicant has provided no information that there are such unusual circumstances about this property that adherence to the Ordinance would cause undue hardship.

The property owner is creating a self imposed hardship. The property is non-conforming, and if the property were not being subdivided these, Variances and the Variance for case 06AN0266 would not be needed. The alternative is not to subdivide this property.

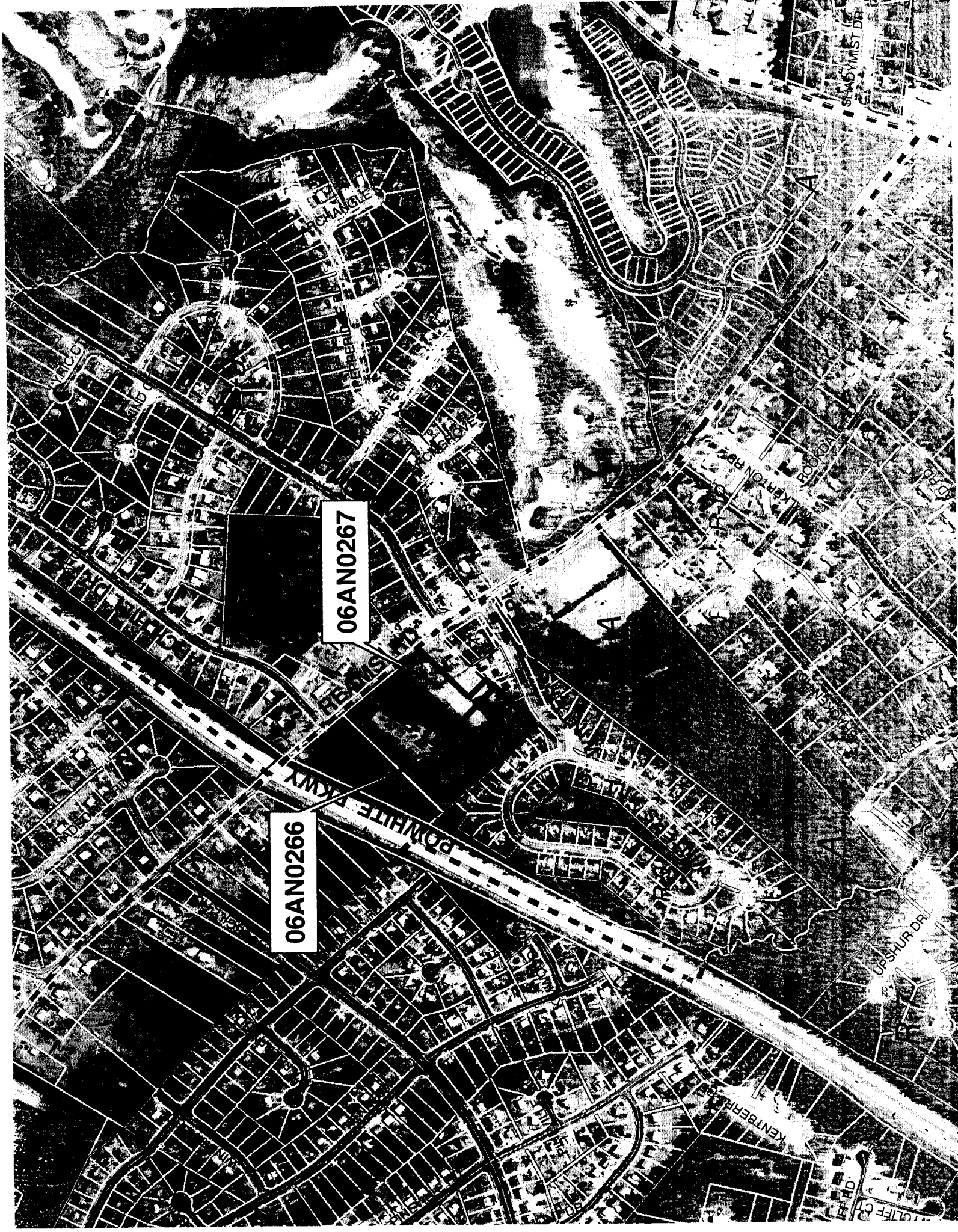
These Variances only become necessary because of an over-development of the site and, if granted, could set a precedent for other such Variances in the area. Therefore, staff cannot support these requests.

However, if the Board feels that these Variances have merit, staff recommends that they be subject to the following condition:

CONDITION

These Variances shall be for the existing dwelling and porch only as depicted on the plat attached to staff's report.





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